

UNITED STATES DISTRICT COURT

OCT 31 2014

David J. Bradley, Clerk of Court

for the

Southern District of Texas

United States of America)

v.)

Case No. C-14-1165M

Erik Omar HERNANDEZ)

Jesus Gerardo HERNANDEZ)

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of 10/30/2014 in the county of Kenedy in the
Southern District of Texas, the defendant(s) violated:

Code Section

Offense Description

Title 21 USC 841(a)(1)

Knowingly, intentionally, and unlawfully
possess with intent to distribute a
controlled substance in Schedule II of
the Controlled Substances Act of 1970,
to wit, approximately 16.170 kilograms
(AGW) of methamphetamine.

This criminal complaint is based on these facts:

See Attachment "A"

☒ Continued on the attached sheet.

Charles Schuetz, Special Agent

Complainant's signature

Printed name and title

Sworn to before me and signed in my presence.

Date: 10/31/2014City and state: Corpus Christi, Texas

Judge's signature

B. Janice Ellington, US Magistrate Judge

Printed name and title

ATTACHMENT "A"

Erik Omar HERNANDEZ

Jesus Gerardo HERNANDEZ

On October 30, 2014 Border Patrol Agent (BPA) Matthew Crews was assigned primary inspection duties at the USBP Checkpoint near Sarita, Texas. BPA Crews was conducting immigration inspections when, at approximately 9:45 a.m., a black Dodge Durango driven by the subject, later identified as Erik Omar HERNANDEZ, stopped for inspection.

As BPA Crews conducted his immigration inspection of Erik HERNANDEZ and his passenger, later identified as Jesus Gerardo HERNANDEZ, he noticed a few factors that raised his suspicion of possible illegal activity. Erik HERNANDEZ was speaking very fast with an excited tone as he answered BPA Crews' questions. Also, Erik HERNANDEZ' eagerness to comply went beyond that of the typical nervous person encountered during such an inspection. This indicated to BPA Crews that the subject was nervous and possibly attempting to hide some fact from him.

Both subjects claimed to be U.S. citizens. Erik HERNANDEZ stated that he was traveling from Brownsville, Texas to San Antonio, Texas to visit his girlfriend. Erik HERNANDEZ was able to quickly give an exact address for his girlfriend's home. Erik HERNANDEZ stated he would be staying in San Antonio for the weekend but then explained that he had already been let off of work for the weekend the day before (Wednesday) and was going to stay in San Antonio for two days before returning home. Erik HERNANDEZ stated that the vehicle he was operating was in his name and that he had owned it for several years. Instead of stopping to think about the answers to what BPA Crews was asking, the subject was very quick to answer questions about his travel plans. It seemed to BPA Crews that the answers had been rehearsed. BPA Crews noticed that the "check engine" light was illuminated on the dash of Erik HERNANDEZ' vehicle. Erik HERNANDEZ stated that he did not know why it was on and that it had been on for a few years.

During this questioning BPA Crews asked for, and was granted, consent to search the back seat and cargo areas of the vehicle. BPA Crews was assisted by BPA Archie Buchanan who allowed his canine partner to perform a non-intrusive free air sniff of the exterior of the vehicle. BPA Crews and BPA Buchanan observed that, despite the claim that Erik HERNANDEZ had owned the vehicle for years, it lacked any personal effects. The subjects had two small gym bags in the back seat but no other luggage in the cargo area.

Based upon his suspicions, BPA Crews requested permission from Erik HERNANDEZ to perform a canine search of the vehicle in the secondary area. The subject freely consented and BPA Crews instructed Erik HERNANDEZ where to park the vehicle.

During the secondary inspection of Erik HERNANDEZ' vehicle BPA Aurelia Valdez questioned Erik HERNANDEZ and Jesus HERNANDEZ further while BPA Buchanan performed a canine search of the vehicle. BPA Valdez advised BPA Crews that the subjects were showing signs of increased nervousness

such as avoiding eye contact with BPA Valdez and having trouble sitting still for any amount of time. BPA Valdez also suspected a level of dishonesty from the subjects after his questioning. Erik HERNANDEZ stated to BPA Valdez that he had purchased the vehicle for \$5,000.00 cash. When BPA Valdez asked Erik HERNANDEZ where he had procured that amount of cash, Erik HERNANDEZ stated that it was from his income tax return. BPA Valdez asked Erik HERNANDEZ if he was married, basing this question on such a large amount of claimed tax return, but Erik HERNANDEZ stated that he was not married.

Furthermore, crossing data showed that Erik HERNANDEZ made frequent trips to and from Mexico. Erik HERNANDEZ had recently crossed into the U.S. with the same black Dodge Durango on October 29, 2014 at 9:46 a.m.

BPA Buchanan then asked Erik HERNANDEZ to drive his vehicle to the area designated for Z Backscatter non-intrusive scanning for further inspection.

During the ZBV scan, BPA (ZBV Operator) Corina Avila noticed several anomalies in the door panels of black Dodge Durango. Upon further inspection, BPA Crews and BPA Buchanan noticed a black adhesive sealant around the inside of the door. Based upon all of these factors, BP Agents searched inside the natural voids of the door panels and discovered multiple black bundles wrapped in black electrical tape.

Further investigation revealed 14 bundles of suspected Methamphetamine, wrapped in black electrical tape, weighing a total of 16.17 kilograms (AGW). One bundle of suspected Methamphetamine was presumptively field tested at the USBP Checkpoint by BPA Michael Hibdon and tested positive for the presence of Methamphetamine.

At this time Erik HERNANDEZ and Jesus HERNANDEZ were placed under arrest and escorted into the checkpoint. BPA Crews read Erik HERNANDEZ his Miranda Warnings, as witnessed by BPA Valdez. Erik HERNANDEZ then signed the form stated that he understood his rights and was not willing to make a statement at that time (10:27 a.m.).

BPA Crews then read Jesus HERNANDEZ his Miranda Warnings, as witnessed by BPA Valdez. Jesus HERNANDEZ then signed the form stating that he understood his rights and was willing to make a statement (10:30 a.m.). As Jesus HERNANDEZ signed the Miranda Warnings form, he stated "Sir, I just want to tell you that I had nothing to do with this." When asked why he was accompanying his brother to San Antonio, Jesus HERNANDEZ stated that he had been asked by Erik HERNANDEZ to go and that he had never been to San Antonio before. BPA Crews then asked Jesus HERNANDEZ where Erik HERNANDEZ worked and the subject stated "He told me that he works for Reliant and goes door to door for them. He pays for everything in cash"! Jesus HERNANDEZ stated that Erik HERNANDEZ would often purchase things for him and pay for it with \$100.00 bills. Jesus HERNANDEZ stated that Erik HERNANDEZ would leave for a day or two and come home with cash. Jesus HERNANDEZ also stated that Erik HERNANDEZ would brag to him that he made a lot of money. When asked what type of narcotics he (Jesus HERNANDEZ) thought was found in the Dodge Durango, Jesus HERNANDEZ stated it was probably something big and probably cocaine or methamphetamine. Jesus HERNANDEZ then stated that Erik HERNANDEZ had left a day or two ago and gone into Mexico. Upon Erik HERNANDEZ' return, he asked

Jesus HERNANDEZ to accompany him to San Antonio. Later, Jesus HERNANDEZ would admit that he had actually gone to Mexico with Erik HERNANDEZ but had been dropped off at his Grandmother's house in Matamoros, Tamaulipas while Erik HERNANDEZ went somewhere unknown for a few hours. Jesus HERNANDEZ then changed his story again and stated that he had not visited his Grandmother on the trip. Jesus HERNANDEZ stated that he and his brother had pulled into a parking lot in Matamoros after crossing into Mexico and given the black Dodge Durango to a man whom Jesus HERNANDEZ could not identify or describe. Jesus HERNANDEZ stated that he and Erik HERNANDEZ then waited for a while and the man eventually brought the black Dodge Durango back. Jesus HERNANDEZ stated that he and Erik HERNANDEZ then drove the black Dodge Durango back home to Brownsville, Texas.

On October 30, 2014, at approximately 4:15 p.m., SA Charles Schuetz and SA Ronny Palm arrived at the USBP Checkpoint located near Sarita, Texas to continue the investigation of Erik HERNANDEZ and Jesus HERNANDEZ.

SA Schuetz and SA Palm first made contact with Jesus HERNANDEZ. SA Schuetz advised Jesus HERNANDEZ of his Miranda Warnings, both verbally and in writing, in Jesus HERNANDEZ' preferred language of English as witnessed by SA Ronny Palm. Jesus HERNANDEZ indicated verbally, and in writing, that he understood his rights and was willing to answer questions without the presence of an attorney.

Jesus HERNANDEZ stated that he and Erik HERNANDEZ had traveled to Matamoros, Tamaulipas, Mexico on October 29, 2014 to get Erik HERNANDEZ' truck checked out because it was overheating. Once in Matamoros, Jesus HERNANDEZ stated that Erik HERNANDEZ told him that the real reason they were in Mexico was to meet some people that were going to put drugs in their (Erik HERNANDEZ and Jesus HERNANDEZ) vehicle. Jesus HERNANDEZ stated that he and Erik HERNANDEZ met several unknown subjects at the International Bridge in Matamoros and relinquished their vehicle to them. Jesus HERNANDEZ stated that approximately 1 ½ hours later, the unknown subjects brought their truck back and gave custody of the truck back to he and Erik HERNANDEZ. Jesus HERNANDEZ stated that he and Erik HERNANDEZ then drove the truck back to their residence in Brownsville, Texas. Jesus HERNANDEZ stated that on October 30, 2014, at approximately 8:00 a.m., he and Erik HERNANDEZ departed Brownsville, Texas for Dallas, Texas. When asked why he thought he and Erik HERNANDEZ were traveling to Dallas, Jesus HERNANDEZ stated "I thought I was going to Dallas to help unload the drugs". When asked how much he (Jesus HERNANDEZ) was going to be paid for helping unload the drugs, Jesus HERNANDEZ stated "I was going to be paid \$500.00 but my brother told me I would get paid more if he would get paid more." Jesus HERNANDEZ stated that he knew there was some type of drug secreted in the black Dodge Durango he and Erik HERNANDEZ were operating, but that he did not know exactly what kind of drug.

SA Schuetz and SA Palm next made contact with Erik HERNANDEZ. SA Schuetz advised Erik HERNANDEZ of his Miranda Warnings, both verbally and in writing, in Erik HERNANDEZ' preferred language of English as witnessed by SA Palm. Erik HERNANDEZ indicated verbally, and in writing, that he understood his rights and was willing to answer questions without the presence of an attorney.

Erik HERNANDEZ stated that on October 29, 2014 he drove with Jesus HERNANDEZ to Matamoros, Tamaulipas, Mexico in order to give his black Dodge Durango to subjects that were going to load drugs into the vehicle. Erik HERNANDEZ stated that on October 29, 2014 he relinquished custody of his truck to the subjects in Mexico. Erik HERNANDEZ stated that a short time later, on October 29, 2014, the subjects brought his truck back to him with an unknown type of drug secreted within the vehicle. Erik HERNANDEZ stated that he was instructed to take the unknown drugs to Dallas, Texas and that he was to be paid \$12,000.00 upon successful delivery. When asked how much Jesus HERNANDEZ thought he was going to be paid, Erik HERNANDEZ stated "I was going to pay him \$500.00, but when we delivered it to Dallas and I got paid, I was going to give Jesus half". When asked if "half" meant \$6,000.00, Erik HERNANDEZ stated "yes". When asked what type of drug he thought he was transporting, Erik HERNANDEZ stated "I knew it wasn't weed, so I thought it was cocaine or something." Erik HERNANDEZ further stated that he only "did it" because he needed the money and that he thought Jesus HERNANDEZ needed the money.

Prosecution of Erik HERNANDEZ and Jesus HERNANDEZ was accepted by AUSA Robert Thorpe (Southern District of Texas, Corpus Christ). The amount of Methamphetamine seized implies the intent to distribute.